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Attorneys for USACM Liquidating Trust

UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEVADA

In re:

USA COMMERCIAL MORTGAGE
COMPANY,

USA CAPITAL REALTY ADVISORS,
LLC,¹

USA CAPITAL DIVERSIFIED TRUST
DEED FUND, LLC,

USA CAPITAL FIRST TRUST DEED
FUND, LLC,²

USA SECURITIES, LLC,³

Debtors.

Affects:

- ☐ All Debtors
- ☒ USA Commercial Mortgage Company
- ☐ USA Capital Realty Advisors, LLC
- ☐ USA Capital Diversified Trust Deed Fund, LLC
- ☐ USA Capital First Trust Deed Fund, LLC
- ☐ USA Securities, LLC

Case No. BK-S-06-10725-LBR
Case No. BK-S-06-10726-LBR¹
Case No. BK-S-06-10727-LBR
Case No. BK-S-06-10728-LBR²
Case No. BK-S-06-10729-LBR³

CHAPTER 11

Jointly Administered Under Case No.
BK-S-06-10725 LBR

**DECLARATION OF GEOFFREY L.
BERMAN IN SUPPORT OF
OMNIBUS OBJECTIONS OF
USACM TRUST TO PROOFS OF
CLAIM BASED UPON
INVESTMENT IN THE
MARGARITA ANNEX LOAN**

Date of Hearing: July 26, 2011

Time of Hearing: 1:30 p.m.

Estimated Time for Hearing: 10 minutes

Geoffrey L. Berman declares under penalty of perjury:

1. I am an adult person competent to testify in court.

2. I make this declaration based upon my personal knowledge, and upon the

records USA Commercial Mortgage Company.

¹ This bankruptcy case was closed on September 23, 2008.

² This bankruptcy case was closed on October 12, 2007.

³ This bankruptcy case was closed on December 21, 2007.

1 3. I am the Trustee of the USACM Liquidating Trust (“USACM Trust”), which
2 is an entity created by the Debtors’ Third Amended Joint Chapter 11 Plan of
3 Reorganization (“Plan”), in the jointly-administered bankruptcy cases, In re USA
4 Commercial Mortgage Company, BK-S-06-10725-LBR, pending in the United States
5 Bankruptcy Court for the District of Nevada.

6 4. USACM circulated an Offer Sheet to prospective Direct Lenders soliciting
7 funding for an acquisition and development loan to a borrower identified as “John and
8 Carol King.” A copy of the Offer Sheet is attached hereto as **Exhibit B** and incorporated
9 by this reference. The total loan amount proposed was \$12,000,000. The Offer Sheet
10 described the investment as a “First Trust Deed Investment” and noted that the investment
11 would be secured by a first deed of trust on 99.5 acres in San Luis Obispo, California, that
12 was mapped for 150 lots ranging in size from 5,000 to 6,000 square feet. The Circular
13 further provides a loan to value percentage of 64%, based on the purchase and sale
14 agreement between Borrower and MidLand Pacific Building Corporation (“MidLand”),
15 which set out a price of \$125,000 per mapped lot. Pursuant to the Loan Agreement, the
16 loan was intended to refinance the property while Borrower completed entitlements
17 required pursuant to the purchase agreement with MidLand.

18 5. On July 26, 2004, Borrower made and delivered to various lenders, including
19 the Direct Lenders identified in **Exhibit A**, a “Promissory Note Secured by Deed of Trust”
20 (the “Note”) and a Loan Agreement. The Note and Loan Agreement provided for a loan
21 of \$10,600,000, which potential subsequent increases up to \$12,000,000. The Note was
22 secured by a “Deed of Trust, Assignment of Rents, Security Agreement and Fixture
23 Filing” from the Borrower in favor of the Direct Lenders that was recorded in the official
24 records of San Luis Obispo County, California on July 30, 2004 at Instrument Number
25 2004068161, as were subsequent amendments to the Deed of Trust to secure subsequent
26 advances.

 6. The USACM “Loan Summary” dated July 31, 2006 and filed in this case
shows that Borrower was “Non-performing” on the Note as of July 31, 2006.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: June 15, 2011.

/s/Geoffrey L. Berman

Geoffrey L. Berman

Copy of the foregoing (without exhibits)
mailed by first class postage prepaid
U.S. Mail on June 15, 2011 to the
investors in the Margarita Annex loan listed
on Exhibit A.

s/ Matt Burr

Matt Burr

Lewis and Roca LLP